

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Connors et al.

Serial No.: 09/825,879

Group Art Unit: 3627

Filed: April 5, 2001

Examiner: Gerald J. O'Connor

For: SYSTEM AND METHOD FOR RESTOCKING AND REPRICING
MERCHANDISE

Honorable Commissioner of Patents
Alexandria, VA 22313-1450

APPELLANT'S REPLY BRIEF

Sir:

In response to the Examiner's Answer dated February 21, 2007 in this Application, Appellant states as follows:

An exemplary aspect of the claimed invention (as recited, for example, in independent claim 1) is directed to a system for restocking and repricing merchandise. The system includes a shelf label **holder including an illuminating device** for performing an illuminating function, and a hand-held unit which remotely causes said illuminating device to illuminate under a predetermined condition. Further, **the illuminating device includes a plurality of illuminating sections which correspond respectively to locations on a shelf** (Application at Figure 2; page 6, lines 1-18). This feature may help guide a store clerk to a correct store location for restocking and/or repricing merchandise (Application at page 2, lines 13-16).

1. The Examiner's Answer is essentially identical to the vague and incomplete Office Actions of February 11, 2005 and July 27, 2005.

Again, the Examiner merely alleges that Brick and Adamec would have been combined to form the claimed invention and refers Appellant to col. 4, line 32 et seq. in Adamec on page 4 of the Examiner's Answer and col. 14, line 3 et seq. in Brick on page 6 of the Examiner's Answer. That's it. It is the same pathetic rejection that the Examiner made in the February 11th and July 27, 2005 Office Actions.

For example, with respect to claim 1, nowhere has the Examiner clearly explained to Appellant what feature in Brick the Examiner is attempting to equate with a "shelf label holder". On page 8 of the Examiner's Answer, the Examiner states "a shelf label, such as one comprising an adhesive paper label, clearly *could* be stuck onto any of the disclosed apparatus of Brick et al. and Adamec et al., thereby making it a 'shelf label holder' by holding the shelf label" (emphasis Examiner's).

Appellant is stunned by this bizarre interpretation. Indeed, the Examiner should know that one of the references must teach or suggest that some such "disclosed apparatus" performs the functions of a "shelf label holder". Thus, for example, for the Examiner to equate the RAM 118a, or the input sensor 126 in Brick with a "shelf label holder", Brick must teach or suggest that the RAM 118a or input sensor 126 performs the functions of a "shelf label holder". Clearly, this is nonsense.

Again, nowhere does the Examiner identify the features in Brick that he is equating with the "illuminating device for performing an illuminating function" in the claimed invention.

Again, nowhere does the Examiner identify what feature in Brick he is attempting to equate with the "hand-held unit which remotely causes said illuminating device to illuminate under a predetermined condition", in the claimed invention.

Moreover, the Examiner has **AGAIN COMPLETELY IGNORED** a feature of the claimed invention. That is, claim 1 recites "*wherein said illuminating device comprises a plurality of illuminating sections which correspond respectively to locations on a shelf*". This limitation was added to claim 1 in the May 11, 2005 Amendment, in which Appellant

pointed out that neither Brick, nor Adamec, nor any alleged combination thereof teaches of suggest this feature.

However, the Examiner did not even address this newly added limitation in the July 27, 2005 Office Action, and again ignored it in the Examiner's Answer. Applicant would point out that the Examiner cannot simply read out a claim limitation on a whim. Indeed, the Examiner must consider each and every limitation in the claim and in rejecting the claim, the Examiner must identify where that limitation is taught or suggested by the prior art references.

Appellant is still waiting for the Examiner to tell Appellant where the alleged prior art references teach or suggest "*wherein said illuminating device comprises a plurality of illuminating sections **which correspond respectively to locations on a shelf***".

Appellant would again point out that

- a. **Brick Does not Teach or Suggest a HOLDER for Holding a Shelf Label, Let Alone a Holder Having an Illuminating Device**
- b. **Adamec Merely Discloses Electronic Price Labels (e.g., Tags) Which Do Not Help Direct A Store Clerk to a Shelf Location**
- c. **Neither Brick nor Adamec Teaches or Suggests an Illuminating Device Having a Plurality of Illuminating Sections**
- d. **Neither Brick nor Adamec Teaches or Suggests Illuminating Sections Which Correspond Respectively to Locations on a Shelf**

Therefore, Appellant respectfully submits that neither Brick, nor Adamec, nor any alleged combination thereof teaches or suggests each and every element of the claimed invention as recited in claims 1-13 and 21-26. Therefore, the Board is respectfully requested

to withdraw this rejection.

2. Conclusion

In view of the foregoing, Appellant submits that claims 1-13 and 21-26, all the claims presently pending in the application, are patentably distinct from the prior art of record and in condition for allowance. Thus, the Board is respectfully requested to remove the rejections of claims 1-13 and 21-26.

Please charge any deficiencies and/or credit any overpayments necessary to enter this paper to Assignee's Deposit Account number 50-0510.

Respectfully submitted,

Dated: April 23, 2007

/Phillip E. Miller
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